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Frank J. Bonini, Jr.
Harding, Earley, Follmer & Failey, P.C.
86 The Commons at Valley Forge East
1288 Valley Forge Road P. O. Box 750
Valley Forge, PA 19482-0750

EXAMINER	
NGUYEN, DUSTIN	
ART UNIT	PAPER NUMBER
2454	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/886,169	THOMAS, MARK G.	
	Examiner	Art Unit	
	DUSTIN NGUYEN	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1. Claims 1 – 23 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 12/26/2007 have been fully considered but they are not persuasive.

3. As per remarks, page 18, Applicants argued that (1) claim 1 of the present invention recites the decision which may be made by a transfer component without actually transmitting the code to the said transfer component, and the cited references would fail to disclose or suggest the Applicants' features.

4. As to point (1), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies as indicated above are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In fact, the claims call for indicating, via said proscribed code scanner to said transfer component, whether said code contains proscribed code, and without transmitting said code to said transfer component. And, as previously pointed out, Dickinson discloses the policy managers [i.e. proscribed code scanner as

claimed] apply different types of policies, then the policy engine [i.e. transport component] receives results from policy managers, the results receives by the policy engine comprise actions such as disposition, annotation and notification [i.e. indicating, via said proscribed code scanner to said transfer component, whether said code contains said proscribed code, and without transmitting said code to said transfer component as claimed] [Figures 2 and 3; and col 4, lines 50-col 5, lines 14]. Therefore, Dickinson clearly discloses the claimed limitation as written.

5. As per remarks, Applicants argued that (2) the cited references would fail to disclose transferring said code to at least one secondary storage component based on said indication.

6. As to point (2), claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). Motoyama discloses implementations of transferring mail by using store and forward queues of multiple mail transfer agents (MTA), wherein mail messages are being passed from local MTA on the sending host, to the relay MTA, and finally to local MTA of the receiving hosts, and mail to be transmitted and received may be queued in a queue of the relay MTA [i.e. transferring said code to at least one secondary storage component as claimed] [Figures 6A and 7; col 9, lines 9-42; and col 10, lines 15-48].

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Dickinson and Motoyama because the teaching of Motoyama on storage would enable to allow data of the monitored usage to be stored and to be transmitted, at appropriately selected times, by Internet mail, and would increase the efficiency of monitoring and analyzing such usage data [Motoyama, col 18, lines 48-62].

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson, III et al. [US Patent No 6,609,196], in view of Motoyama et al. [US Patent No 7,131,070].

10. As per claim 1, Dickinson discloses the invention as claimed including a method for processing stored and forwarded code [i.e. receive and transmit] [col 2, lines 2-9; and col 4, lines 30-40] comprising:

transferring code, from a storage component [i.e. relay module such as sendmail] [202, Figure 2; and col 4, lines 9-29], to a transfer component [i.e. policy engine accept message from relay module] [214, Figure 2; and col 4, lines 52-59];

transferring said code, from said transfer component, to a proscribed code scanner [i.e. policy engine calls the policy managers to apply policies] [216, Figure 2; and col 4, lines 59-col 5, lines 3; and col 5, lines 15-31];

indicating, via said proscribed code scanner to said transfer component, whether said code contains proscribed code; and, without transmitting said code to said transfer component [i.e. the policy engine then receives results from policy manager] [col 5, lines 3-14].

Dickinson does not specifically disclose

transferring said code to at least one secondary storage component based on said indication.

Motoyama discloses transferring said code to at least one secondary storage component based on said indication [i.e. queue of relay MTA] [Figure 7; and col 10, lines 15-48].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Dickinson and Motoyama because Motoyama's teaching of multiple relay MTA would enable to receive and transmit message properly to any types of connection from any communication networks.

11. As per claim 2, Motoyama discloses the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component [i.e. transmit message from relay MTA 328 to relay MTA 332] [328-334, Figure 7; and col 10, lines 15-48].

12. As per claim 3, Dickinson discloses the step of sorting said code prior to transfer to said at least one secondary storage component [i.e. filter a message by the priority of the message] [col 5, lines 32-48; and col 7, lines 36-38].

13. As per claim 4, Dickinson discloses the step of transferring code to at least two secondary storage components, with a first of at least two secondary storage components receiving smaller stored and forwarded code and a second of at least two secondary storage components receiving larger stored and forwarded code [i.e. queues] [col 5, lines 35-43; col 9, lines 64-col 10, lines 17; and col 11, lines 57-59].

14. As per claim 5, Dickinson discloses code comprises email [Abstract; and col 2, lines 1-19].

15. As per claim 6, it is rejected for similar reasons as stated above in claims 1 and 3.

16. As per claim 7, it is rejected for similar reasons as stated above in claim 2.

17. As per claims 8 and 9, they are rejected for similar reasons as stated above in claims 4 and 5.

18. As per claim 10, it is rejected for similar reasons as stated above in claims 1 and 5.

19. As per claim 11, it is rejected for similar reasons as stated above in claims 2 and 5.

20. As per claim 12, it is rejected for similar reasons as stated above in claims 3 and 5.

21. As per claim 13, it is rejected for similar reasons as stated above in claims 3-5.

22. As per claim 14, it is rejected for similar reasons as stated above in claim 1. Furthermore, Dickinson discloses transfers said code to either said first or second secondary storage component based upon the presence or absence of proscribed code as indicated by said proscribed code scanner [i.e. restriction transmission of e-mail message between the first site and the second sites in accordance with the virus policy] [Abstract; and col 11, lines 18-21].

23. As per claim 15, it is rejected for similar reasons as stated above in claim 5.

24. As per claim 16, Dickinson discloses sendmail queue [Figure 7; and col 9, lines 64-col 10, lines 17].

25. As per claim 17, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

26. As per claim 18, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

27. As per claim 19, it is rejected for similar reasons as stated above in claim 1.

28. As per claim 20, it is rejected for similar reasons as stated above in claims 1-3 and 5.

29. As per claim 21, Dickinson discloses wherein the method comprises a method for sending mail using a mail transport agent, including creating a secondary queue which comprises a new queue prior to processing by said mail transport agent, and retrieving email code from the second queue prior to further processing by said mail transport agent and delivering prior to further processing by said mail transport agent said retrieved email code to a proscribed code scanner [Figures 6a and 6b; and col 9, lines 1-62].

30. As per claim 22, Dickinson discloses wherein where scanning of said email code delivered to said proscribed code scanner results in the identification of the presence of proscribed code the email code may remain in the secondary queue or be transferred to a second secondary queue, and wherein when scanning of said email code delivered to said proscribed code scanner does not result in the identification of the presence of proscribed code, the email code is be moved to one or more third secondary queues [col 5, lines 49-67; and col 9, lines 46-63].

31. As per claim 23, Dickinson discloses wherein at least a plurality of secondary storage components are provided, including at least one secondary storage component comprising a queue for outgoing messages, and wherein at least one other of said queue comprising a queue from which messages are copied by a said transfer component and said copies are transferred to said proscribed code scanner [Figure 7; and col 9, lines 64-col 10,m lines 17].

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DUSTIN NGUYEN/
Primary Examiner, Art Unit 2454